

TO: Members
Medical Board of California

FROM: Glenn L. Mitchell, Jr., Executive Officer
Physician Assistant Board

DATE: October 8, 2013

SUBJECT: Regulatory Proposal - Title 16, California Code of Regulations, section
1399.541 Medical Services Performable

The Medical Board of California, rather than the Physician Assistant Board (PA Board), must adopt, amend, or repeal all regulations that affect the scope of practice of physician assistants.

Please see the attached proposed language to amend Title 16 of the California Code of Regulations section 1399.541 regarding the personal presence of the physician while the physician assistant acts as a first or second assistant in surgery. The purpose of this regulatory change is to update and clarify supervision requirements while the physician assistant acts as a first or second assistant in surgery.

In 2011, a concern was raised to the PA Board (then the PA Committee); it was determined that the regulation should be amended to reflect current medical standards with regard to this practice.

A proposed regulation was submitted to the Medical Board in May, 2012, for consideration. However, the Medical Board had concerns about the breadth of the regulation and asked the PA Committee to reconsider the language. After considering the Medical Board's concerns, PA Board staff started over and began to develop a different regulatory proposal.

In late July, 2013, PA Board staff shared the draft language with Medical Board staff and legal counsel to anticipate any concerns the members of the Medical Board may have. None were identified. At its August 26, 2013 meeting, the PA Board voted to approve the proposed regulatory language and submit the proposal to the Medical Board.

The PA Board respectfully requests that the Medical Board authorize staff to begin the formal rulemaking process to adopt the proposed language (attached).

On behalf of the PA Board, I wish to thank you for taking the time to consider this important matter.

Attachment: Proposed language

PHYSICIAN ASSISTANT BOARD
Proposed Regulatory Amendment
Title 16, C.C.R., § 1399.541

Strikeout indicates deletions; underline indicates additions to current text.

1. Amend heading of division 13.8 of title 16 as follows:

Division 13.8. Physician Assistant Board ~~Examining Committee of the Medical Board of California~~

2. Amend section 1399.541 of article 4 of division 13.8 as follows:

§ 1399.541. Medical Services Performable.

Because physician assistant practice is directed by a supervising physician, and a physician assistant acts as an agent for that physician, the orders given and tasks performed by a physician assistant shall be considered the same as if they had been given and performed by the supervising physician. Unless otherwise specified in these regulations or in the delegation or protocols, these orders may be initiated without the prior patient specific order of the supervising physician.

In any setting, including for example, any licensed health facility, out-patient settings, patients' residences, residential facilities, and hospices, as applicable, a physician assistant may, pursuant to a delegation and protocols where present:

(a) Take a patient history; perform a physical examination and make an assessment and diagnosis therefrom; initiate, review and revise treatment and therapy plans including plans for those services described in Section 1399.541(b) through Section 1399.541(i) inclusive; and record and present pertinent data in a manner meaningful to the physician.

(b) Order or transmit an order for x-ray, other studies, therapeutic diets, physical therapy, occupational therapy, respiratory therapy, and nursing services.

(c) Order, transmit an order for, perform, or assist in the performance of laboratory procedures, screening procedures and therapeutic procedures.

(d) Recognize and evaluate situations which call for immediate attention of a physician and institute, when necessary, treatment procedures essential for the life of the patient.

(e) Instruct and counsel patients regarding matters pertaining to their physical and mental health. Counseling may include topics such as medications, diets, social habits, family planning, normal growth and development, aging, and understanding of and long-term management of their diseases.

(f) Initiate arrangements for admissions, complete forms and charts pertinent to the patient's medical record, and provide services to patients requiring continuing care, including patients at home.

(g) Initiate and facilitate the referral of patients to the appropriate health facilities, agencies, and resources of the community.

(h) Administer or provide medication to a patient, or issue or transmit drug orders orally or in writing in accordance with the provisions of subdivisions (a)-(f), inclusive, of Section 3502.1 of the Code.

(i)(1) Perform surgical procedures without the personal presence of the supervising physician which are customarily performed under local anesthesia. Prior to delegating any such surgical procedures, the supervising physician shall review documentation which indicates that the physician assistant is trained to perform the surgical procedures. All other surgical procedures requiring other forms of anesthesia may be performed by a physician assistant only in the personal presence of an approved supervising physician.

(2) A physician assistant may also act as first or second assistant in surgery under the supervision of an ~~approved~~ supervising physician. The physician assistant may so act without the personal presence of the supervising physician if the supervising physician is immediately available to the physician assistant. "Immediately available" means able to return to the patient, without delay, upon the request of the physician assistant or to address any situation requiring the supervising physician's services.

Note: Authority cited: Sections 2018, 3502 and 3510, Business and Professions Code.
Reference: Sections 2058, 3502 and 3502.1, Business and Professions Code.